

In the Court of Appeals of the State of Alaska

Stephen Harmon,

Appellant,

v.

State of Alaska,

Appellee.

Court of Appeals No. **A-13760**

Order

Motion to Extend Time to File Brief
Motion for the Court of Appeals to
“relax limits for the briefing extension
limits”

Date of Order: **5/11/2021**

Trial Court Case No. **4FA-13-02849CI, 4FA-92-02481CR**

The Office of Criminal Appeals, representing the Appellee, recently requested, under this Court’s Standing Order No. 12, an extension of time to file the State’s brief. The order granting the motion noted that the order was being issued prior to the due date for an opposition, and that if a timely opposition was filed, a judge would consider the matter de novo. Because the Appellant, Stephen Harmon, representing himself, has filed an opposition to the Agency’s motion, the Court will now consider the Agency’s request for an extension of time de novo.

Mr. Harmon opposes the Agency’s motion primarily because the Agency did not comply with the requirements of Appellate Rule 503.5 for a non-routine extension of time for filing briefs. But he also in part opposes the Agency’s request because he believes that it is made only to delay the resolution of his appeal, and that there are no extraordinary circumstances for granting the Agency’s request. But because the Agency’s motion falls within the time limits established in Standing Order No. 12, the Agency was not required to comply with Rule 503.5’s requirements for requesting

a non-routine extension, nor make a showing of extraordinary circumstances.

Additionally, Mr. Harmon, citing the language of Standing Order No. 12, has filed a separate motion asking this Court to conclude there are extraordinary circumstances to “relax the limits” in Standing Order No. 12 and to then *deny* the Agency’s request. But under Standing Order No. 12, extraordinary circumstances become relevant only when this Court is asked to grant an extension *beyond* the maximum time limits established in that order. For this reason, this motion is **DENIED**.

This Court recognizes that lengthy legal proceedings may cause all parties to the litigation frustration and even anger. This Court, too, would like to have this appeal proceed more quickly. But unfortunately, this case is not unique.

The underlying problem is that there are too many criminal appeals compared to the number of lawyers available to brief those appeals. While it may be tempting to order the Office of Criminal Appeals to speed up its briefing in this case, this would create a cascading delay of the briefing in all the other criminal appeals currently being handled by that agency. There are only so many attorneys who are both (1) available and (2) competent to write a criminal appeal. And there are literally hundreds of cases that are in the same position as this one.

This Court has been aware of the briefing delay problem for some time — and, in January 2014, the Court issued a new set of limitations on briefing extensions.

Harmon v. State, File No. A-13760
May 11, 2021 - p. 3

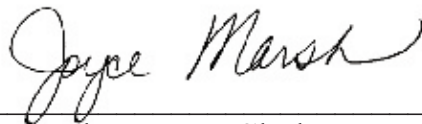
Under these new limitations, the maximum permitted extensions for all briefs (both the briefs filed by the defense agencies and the briefs filed by the State's criminal appeals division) are gradually being reduced, with the goal of limiting the maximum total extensions for both the Appellant and the Appellee. (Currently, the maximum extension for the Appellee is 200 days.)

After these limits on briefing extensions are fully implemented, most criminal appeals will be decided within two years from the time they are filed. The Court wishes it could impose these limits right away — but, as a practical matter, that is not possible.

For these reasons the Office of Criminal Appeals' requested extension of time to file the Appellee's brief is **GRANTED**. The State's brief is due on or before October 25, 2021.

Entered at the direction of Chief Judge Allard.

Clerk of the Appellate Courts

A handwritten signature in cursive script, reading "Joyce Marsh", written over a horizontal line.

Joyce Marsh, Deputy Clerk

Distribution:

Mail:
Harmon, Stephen

Email:
Simel, Nancy R.